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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,485

07/27/2006

Enrico Brambilla

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EXAMINER

CORMIER, DAVID G

ART UNIT

PAPER NUMBER

1711

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,485	Applicant(s) BRAMBILLA ET AL.	
	Examiner DAVID CORMIER	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07272006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Note

1. In the claim set submitted July 27, 2006, the dependency of the claims was amended to put the claims in proper form. In the most recent claim set submitted on June 05, 2008, the claims were reverted such that the dependency of some of the claims is again improper. Because it appears to be the intent of Applicant for the claims to be amended to be in proper format, the claim set submitted July 27, 2006 will be examined. If it was Applicant's intention to have the claim set of June 05, 2008 examined, Applicant should note that there would be objections to some of the claims for being in improper multiple dependent format.

Election/Restrictions

2. Applicant's election of Group I, Claims 18-24 in the reply filed on April 15, 2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

3. Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The phrase "sanitary component" lacks any antecedent basis. The

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proper interpretation for this element is unclear, but it may be modifying the "antibiotic agent" of Claim 18 from which Claim 21 depends. The Examiner considers a "sanitary component" to be a broader concept than an "antibiotic agent"; therefore, it does not further limit. Clarification or amendment is required.

4. Claim 22 is objected to because of the following informalities: Claim 22 recites the phrase "bacteriocidal and or at least one fungicidal" which appears to be a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 18-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding Claim 18, the phrase "comprising a sieve system...provided, at or adjacent to at least one of its surfaces, with at least one antibiotic agent" is indefinite. It is unclear if the sieve system and/or filter is adjacent to some surface of the liquid-bearing appliance, if an antibiotic agent is provided adjacent to one of the surfaces of the sieve system and/or filter, or something else entirely.

8. Regarding claims 18-20, 23, and 24, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the

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claimed invention. See MPEP § 2173.05(d). For examination purposes, those limitations in the clauses following the phrase “in particular” will be interpreted as optional.

9. Regarding claims 23, and 24, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For examination purposes, those limitations in the clauses following the phrase “preferably” will be interpreted as optional.

10. Regarding Claim 21, the phrase “comprising at least one said sanitary component” is indefinite. There does not appear to be proper antecedent basis for a said sanitary component. The said sanitary component appears to be an element of the nonelected claims. For examination purposes, it will be interpreted as the antibiotic agent.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. **Claims 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hur et al. (EP 1415585; cited by Applicant).**

13. Hur discloses a dishwasher comprising a sieve system and/or filter (“filter” 21, or “net” 31). Provided at the net (31) is an antibacterial coating ([0018]). Provided *adjacent* the filter (21) is the same antibacterial coating present on the net (31) ([0016] and [0018]; Figures 2 and 3). Both the filter (21) and net (31) are provided inside the washing chamber (11), which is

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capable of containing stagnant water. An antibacterial agent by definition would comprise either a bacteriostatic or a bacteriocidal agent.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. **Claims 18, 19, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US 2004/0159337) in view of Imai et al. (JP 05-111451; cited by Applicant).**

17. Regarding Claims 18, 19, 21 and 22, Johnson discloses a dishwasher including a filter (207), which is adjacent the bottom (8) and side surfaces (9, 10, 11) of the tub (5). The tub (5) is preferably made of injection molded plastic ([0031]).

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18. Johnson does not expressly disclose that the surfaces adjacent the filter are provided with an antibiotic agent comprising a bacteriocidal, fungicidal, bacteriostatic, or anti-algal substance, or that the antibiotic agent is provided inside an area of the liquid bearing appliance which contains stagnant water after drainage.

19. Imai discloses a tableware washing machine (machine translation, abstract) in which parts of the machine are made from a resin containing antibacterial silver, copper, or zinc ions adsorbed to a calcium carbonate, calcium phosphate, or ceramic support material (abstract; also see the machine translation at page 1, lines 1-4 and 29-34; page 2, lines 1-18; page 5, lines 11-30). This resin material prevents the propagation of microorganisms such as bacteria, mold, and algae (abstract).

20. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Johnson, as taught by Imai, and to substitute the plastic material of the tub walls with an antibacterial resin, yielding the predictable results of preventing the propagation of microorganisms such as bacteria, mold, and algae in the dishwasher. The dishwasher having a filter adjacent an antibiotic agent would yield the claimed invention. The tub would be capable of retaining stagnant water after drainage and would contain the antibiotic agent.

21. Claims 23 and 24 are considered to be taught by Johnson in view of Imai.

22. Regarding Claim 23, Imai discloses that the antibacterial agent comprises silver, copper, or zinc (abstract; also see the machine translation at page 1, lines 1-4 and 29-34; page 2, lines 1-18; page 5, lines 11-30).

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23. Regarding Claim 24, Imai discloses that the antibacterial agent can comprise a ceramic support material (abstract; also see the machine translation at page 1, lines 1-4 and 29-34; page 2, lines 1-18; page 5, lines 11-30).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CORMIER whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art Unit
1711

/DGC/

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David Cormier
04/30/2010